

United States District Court
Southern District of Texas

ENTERED

April 23, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

JUAN BENITO MANCIAS
Plaintiff,

vs.

UNITED STATES OF AMERICA
Defendant.

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CIV. NO. 7:20-cv-00349

ORDER

On April 22, 2021, a status hearing was held in this matter. (Dkt. Data Entry, April 22, 2021.) In a previous Order, dated February 26, 2021, Plaintiff was instructed to effectuate service on Customs and Border Protection (CBP) no later than April 28, 2021. (Dkt. No. 6.) In the same Order, Plaintiff's remaining claims, were dismissed without prejudice for lack of venue, improper joinder, and failure to state a claim. (*Id.* at 3.) At the April 22 status hearing, the Court ORDERED the following:

- 1) Plaintiff may have an extension for the purpose of effectuating service, and
- 2) Plaintiff may amend his Complaint to bring claims against additional parties involved in border wall construction, but Plaintiff should ensure that venue requirements are met. The claims should arise out of Hidalgo or Starr County, or the party should reside in the same counties. 28 U.S.C. § 1391(b).¹ Plaintiff has 30 days to amend his complaint; the amended complaint must be filed no later than May 24, 2021.

¹ 28 U.S.C. § 1391(b) states, "A civil action may be brought in: (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there

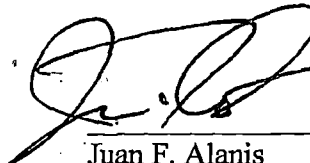
Plaintiff must serve all defendants pursuant to Rule 4 of the Federal Rules of Civil Procedure.² Plaintiff has 90 days to effectuate service on all defendants, including CBP. At the status hearing, Plaintiff was instructed that he only had two weeks to effectuate service on CBP, but on reconsideration, it is ORDERED that Plaintiff has 90 days to effectuate service on all necessary parties. Service, pursuant to Rule 4, must be completed no later than **July 21, 2021**.

As stated at the hearing, Plaintiff is advised that failure to effectuate service pursuant to Federal Rules of Civil Procedure may lead to dismissal of Plaintiff's civil complaint.

The matter is set for an initial trial conference on **Thursday, July 29th at 2:00 p.m.** Parties to the matter may appear via zoom conference call. Said parties must contact the Deputy Clerk assigned to Judge Alanis for information on conference call. The previous Order for Initial Pretrial and Scheduling Conference (Dkt. No. 5), dated January 28, 2021, is canceled.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 23rd day of April, 2021.



Juan F. Alanis
United States Magistrate Judge

is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action."

² Rule 4 of the Federal Rules of Civil Procedure states, in part, "(1) A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service. (2) By Whom. Any person who is at least 18 years old and not a party may serve a summons and complaint. (3) By a Marshal or Someone Specially Appointed. At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916." Fed. R. Civ. P. 4(c).